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6 UNITED VAN LINES, LLC

ORIGINAL
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RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA S.J.

ADR

UNITED STATES DISTRICT COURT

RMW

NORTHERN DISTRICT - SAN JOSE BRANCH

C08 02927 PVT

11 UNITED VAN LINES, LLC

Case No.:

12 Plaintiff,

COMPLAINT FOR DECLARATORY
RELIEF

13 v.

14 HELENE GOLDSTEIN

15 Defendants.

BY FAX

17 TO DEFENDANT AND HER ATTORNEYS OF RECORD:

18 COMES NOW Plaintiff UNITED VAN LINES, LLC; ("UVL"), and hereby files this
19 Complaint for Declaratory Relief against Defendant, HELENE GOLDSTEIN ("Goldstein"),
20 and DOES 1 to 10 (Goldstein and DOES will be referred to collectively, where
21 appropriate, as ("Defendants"), and allege as follows:

22 **PARTIES, JURISDICTION AND VENUE**

23 1. UVL, is a limited liability company, organized and existing under the laws of
24 the State of Missouri, with its principal place of business in Fenton, Missouri.

25 2. As of September 13, 2007, Goldstein was a resident of Pebble Beach,
26 California.

27 3. The residence and domicile of DOES 1 to 10 is currently unknown.

28 4. On or about September 4, 2007, Goldstein contracted with UVL for

1 transportation of her household goods and personal property through interstate
 2 commerce from her residence at Bellingham, Washington to three locations in California.
 3 The main portion of Goldstein's household goods and personal property was delivered to
 4 Monterey Highway Self-Storage in Monterey, California. The remainder of Goldstein's
 5 property was delivered to Extra Space Mini-Storage and to her residence in Pebble
 6 Beach, California. Goldstein's move on or about September 4, 2007, was performed
 7 pursuant to Uvula's Uniform Household Goods Bill of Lading and Freight Bill Nos. 165-
 8 182-7 ("main load") and 165-182-7(a) ("overflow"). Copies of the operative Bills of Lading
 9 for Goldstein's move are attached hereto, collectively, as Exhibit "A." The shipment was
 10 received by Monterey Highway Self-Storage on September 12, 2007; and the shipment to
 11 Extra Space Mini-Storage and Goldstein's residence was received on September 22,
 12 2007.

13 5. As more particularly set forth below, UVL presents an actual controversy
 14 within the meaning of 28 U.S.C. Section 2201 and within this Court's jurisdiction.

15 6. This Court has original federal question jurisdiction based on the rights and
 16 liabilities of the parties under a contract for the interstate transportation of property
 17 pursuant to the Carmack Amendment to the Interstate Commerce Act, 49 U.S.C. Section
 18 14706. This action seeks remedies which require this Court to interpret the Carmack
 19 Amendment, and UVL's applicable published tariffs as incorporated into the Bill of Lading
 20 and published pursuant to 49 U.S.C. Section 13702(c).

21 7. Venue is proper in this judicial district pursuant to 28 U.S.C. Section
 22 1391(b) in that a substantial part of the events or omissions giving rise to this controversy
 23 occurred in this district.

24 GENERAL ALLEGATIONS

25 8. UVL is a motor carrier authorized by the Surface Transportation Board to
 26 transport household goods in interstate commerce pursuant to the provisions of the
 27 Interstate Commerce Act.
 28

1 9. On or about September 4, 2007, Goldstein contracted with UVL for
2 transportation of her household goods and personal property through interstate
3 commerce. Goldstein's move was performed pursuant to Uniform Household Goods Bill
4 of Lading and Freight Bill Nos. 165-182-7 and 165-182-7(a), and UVL's duly published
5 tariffs incorporated therein by reference.

6 10. On or about September 5, 2007, UVL commenced performance of its
7 contract with Goldstein by loading Goldstein's household goods and personal property
8 into a moving van and transporting a portion of said goods in interstate commerce to
9 storage at Monterey Highway Self-Storage, located in Monterey, California. Goldstein
10 was present at the time a portion her property was delivered to Monterey Highway Self-
11 Storage on or about September 12, 2007. Goldstein did not make any notations or
12 exceptions of any damage or loss on the shipping documents, nor did she document any
13 change to the count or condition of her property at that time.

14 11. On or about September 22, 2007, UVL delivered the overflow portion of
15 Goldstein's household goods to Extra Space Mini-Storage in Monterey, California and to
16 Goldstein's residence in Pebble Beach, California. Goldstein was present at the time the
17 overflow property was delivered to Extra Space Mini-Storage and to her residence on or
18 about September 22, 2007. Goldstein did not make any notations or exceptions of any
19 damage or loss on the shipping documents, nor did she document any change to the
20 count or condition of her property at that time.

21 12. Subsequently, Goldstein admits that she hired another mover to access the
22 storage vaults and move items around within the vaults located at Monterey Highway
23 Self-Storage and/or Extra Space Mini-Storage prior to providing any notice to UVL of any
24 loss and/or damage claims.

25 13. On or about March 23, 2008, Goldstein presented a written claim for
26 damage and/or loss to UVL filed under the Bills of Lading Nos. 165-182-7 and 165-182-
27 7(a).

28 ///

16. It is clear that Goldstein's claim is in excess of \$10,000.00 and is comprised of damages in excess of United's responsibility based upon the released value provisions of the Bills of Lading, by UVL's published tariff, the Carmack Amendment to the Interstate Commerce Act, and Goldstein's inability to meet her Carmack Amendment burden of proof. Thus, it appears that Goldstein is intent on filing a Complaint with no merit under existing federal law.

20. UVL respectfully requests a declaration by this Court of the rights and liabilities of the parties under the Bills of Lading, UVL's published tariffs and the Carmack Amendment.

WHEREFORE, UVL respectfully requests this Court to:

1. Declare that Goldstein is not entitled to recover against UVL until, and unless, she meets her burden of proof to establish a prima facie case of carrier liability under the Carmack Amendment to the Interstate Commerce Act;
2. Declare that UVL is not liable to Goldstein under any state or common law theory of recovery;
3. Declare that UVL is not liable to Goldstein for any damages or loss in excess of that permitted by the Bills of Lading, UVL's applicable tariffs, the Carmack Amendment, and that UVL is not liable to Goldstein for any damages for which Goldstein is unable to meet her Carmack Amendment burden of proof;
4. Declare that Goldstein's shipment was released to UVL at a released rate declaration of \$.60 per pound, per article and therefore, Goldstein's ability to recover damages, if any, is limited to the weight of the articles for which she can meet her Carmack Amendment burden of proof, times \$.60 per pound, per article;
5. Award all costs of this action to UVL; and
6. Grant UVL such other and further relief as the Court believes just and proper.

DATED: June 12, 2008

STONE | ROSENBLATT | CHA
A Professional Law Corporation

By: 

GREGG S. GARFINKEL
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UNITED VAN LINES, LLC

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EXHIBIT A

1 FOR OFFICE
D. 077949

IN ANY CORRESPONDENCE
GIVE NUMBER

1 Filed 06/12/2008 Page 7 of 8

0165	CEN	RAL MOVING & STORAGE	360-4247714	
211	ANDE	SON ROAD	WA	DESTINATION AIRMAIL POST OFFICE
0123	CAR	UNALE MOVING & STORA	831-5324100	

[illegible]

SPECIAL INSTRUCTIONS/COMMENTS		32,700	32,700	DESCRIPTION	RATE	OTHER CHARGES
ACTUAL CHARGES						
BASED ON ACTUAL WEIGHT AND SERVICES.				ORIG SERV CHRG	3.06	1000.62
				DEST SERV CHRG	2.95	964.65
				AUX SERV 0-	32700	11.00 4721.00
SHIPPER REQUESTS: 2 VIEW WEIGHINGS:		YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>			

(Signature) (Printed Name) (Date)		SUBTOTAL - ACCTS		6686.27	
(Signature) (Printed Name) (Date)		TL ADDL SERV REDUCED		62.00% 2540.78	
(Signature) (Printed Name) (Date)		FUEL SURCHG		11407.33 0600 684.44 *	
(Signature) (Printed Name) (Date)		INS. RELATED		11407.33 0400 456.29 **	

[illegible]

SUBTOTAL		EXCL FROM DISC		1140.79
VALUATION BASE				
MILES	WEIGHT	CHARGE	WEIGHT	RATE
1ST DAY	DATE IN:			
2ND DAY	TO	NO DAYS		
WAREHOUSE HANDLING				
EXTENDED VALUATION				

[illegible]

1) _____ \$ _____
2) _____ \$ _____
2. TOTAL ESTIMATE _____ \$ 15,088.89
_____ \$ _____
_____ \$ _____

[illegible]

3) \$ 16,597.72 110% OF ESTIMATED CHARGES
You should sign below only if you wish this carrier to perform all the services required.
By signing shipper also acknowledges receipt of the Order for Service.

(X) H. Green 9-04-07

1516-88E-098

The image consists of four sequential black and white photographs of a vehicle's interior, specifically the dashboard and steering area. The images are heavily degraded with significant noise and artifacts, making the details difficult to discern. The first image on the left shows a close-up of the dashboard with some faint, illegible text. The second image shows a similar view from a slightly different angle. The third image shows the steering wheel and dashboard area. The fourth image on the right shows a close-up of the dashboard with some faint, illegible text. The overall quality is poor, with many vertical lines and noise throughout the images.

